IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl.Misc.No.74778-M of 2006
Date of Decision:- 09.1.2007

Sanjeev @ Sonu .....Petitioner(s)

through
Mr.S.S.Siao, Advocate.

vs.

State of Haryana etc. .....Respondent(s)

through
Mr.R.D.Sharma, DAG, Haryana.

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CORAM:- HON'BLE MR. JUSTICE SURYA KANT.

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SURYA KANT, J. (ORAL)

The petitioner, who is a life convict, is aggrieved of the order dated 6.9.2006 (Annexure P-1) whereby his request to release him on furlough has been turned down on the ground that his grand-mother (Smt.Chameli) does not want him to be released on furlough.

In the written statement also, the respondents have reiterated the same ground and have further averred that the family members of the petitioner (except his grand-mother) are living in Nazafgarh (Delhi) whereas his grand-mother alone is living in the ancestral village.

Temporary release of a prisoner on furlough is permissible subject to fulfillment of the pre-requisites of Section 4 of the Haryana Good Conduct Prisoners (Temporary Release) Act , 1988. Section 6 of the Act, however, further empowers the State Government that even if a prisoner fulfills the conditions laid down in Section 4, he can be declined the release on furlough if his release is likely to endanger the security of the State or

maintenance of public order.

The present case undoubtedly does not fall within the exception of danger to the security of the State. Similarly, it is not the case of the respondents that the grand-mother of the petitioner apprehends any danger to her life at the hands of the petitioner, therefore, merely because she does not want her grand-son to be released on furlough, *per se* would not amount to danger to the public order.

Consequently and for the reasons afore-stated, this petition is allowed to the extent that the order dated 6.9.2006 (Annexure P-1) is quashed with a direction to the Director General of Prisons, Haryana, to reconsider the petitioner's case after getting a definite and firm report through the police authorities as to whether or not the petitioner's grand-mother has any apprehension to her life and liberty at the hands of the petitioner. In this regard, the verification of antecedents and past conduct of the petitioner from other respectables of the village can also have a material bearing on the formation of opinion. The necessary decision shall be taken within a period of one month from the date of receipt of certified copy of this order.

January 09, 2007 **(SURYA KANT)**
poonam **JUDGE**